

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ERIC M. ROBINSON,

Petitioner,

vs.

BRAD JOHNSON, and DOUG
PETERSON, Attorney General;

Respondents.

8:19CV43




MEMORANDUM AND ORDER

This matter is before the court on Petitioner Eric M. Robinson's ("Petitioner" or "Robinson") Motion for Relief from Judgment under Federal Rule of Civil Procedure 60(b)(2) and (d)(3). (Filing 50.)

On June 9, 2021, the court entered a Memorandum and Order (filing 49) reopening the time for Robinson to file an appeal from the court's March 31, 2021 Memorandum and Order (filing 45) and Judgment (filing 46) dismissing his habeas petition with prejudice. Pursuant to Federal Rule of Appellate Procedure 4(a)(6), the court granted Robinson 14 days, or until June 23, 2021, to file a notice of appeal because Robinson did not receive notice of the court's March 31, 2021 Judgment within 21 days of entry. On June 17, 2021, Robinson filed the present motion seeking relief from the March 31, 2021 Judgment "because of this court[']s return to sender mail fraud." (Filing 50 at CM/ECF p. 18 (emphasis omitted).) Essentially, Robinson claims that the court is "mislead[ing] this record" and did not mail the March 31, 2021 Judgment to Robinson's previous address at 4640 Orchard Street, Apt. 39, Lincoln, NE 68503 (hereinafter "Orchard Street address") as the court stated it did in its June 9, 2021 Memorandum and Order. Rather, Robinson claims the court did not send any notice until after May 3, 2021, in order to obstruct Robinson's opportunity to file a timely appeal and a Rule 60 motion that would "stop the appellate clock." (*Id.* at CM/ECF pp. 44.) Robinson claims to

have USPS mail tracking on the Orchard Street address that shows the March 31, 2021 Judgment was never sent.¹

Despite Robinson’s assertions to the contrary, the clerk of court mailed a copy of the March 31, 2021 Memorandum and Order and Judgment to Robinson at the Orchard Street address. The mail that was returned to the court on May 3, 2021 reflects that with a postmark dated “03/31/2021.” (Filing 47 at CM/ECF p. 2.) The court’s docket sheet, attached below, also reflects the mailing as required by the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 77(d)(1) (“Immediately after entering an order or judgment, the clerk must serve notice of the entry, as provided in Rule 5(b), on each party who is not in default for failing to appear. The clerk must record the service on the docket.”); *see also* Fed. R. Civ. P. 5(b)(2)(C) (service of an order can be made by “mailing it to the person’s last known address—in which event service is complete upon mailing.”).

03/31/2021	 45	<input type="checkbox"/> 176.41KB	MEMORANDUM AND ORDER - IT IS THEREFORE ORDERED that: Respondents' Motion for Summary Judgment (filing 33) is granted. Petitioner's motion for additional state court records (filing 37) is denied as moot. The Amended Petition for Writ of Habeas Corpus (filing 27) is denied and dismissed with prejudice. No certificate of appealability has been or will be issued. Judgment will be issued by separate document. Ordered by Senior Judge Richard G. Kopf. (Copy mailed to pro se party)(TCL) (Entered: 03/31/2021)
03/31/2021	 46	<input type="checkbox"/> 19.68KB	JUDGMENT - Pursuant to the Memorandum and Order 45 entered this date, the Petition for Writ of Habeas Corpus is denied and dismissed with prejudice, and the court will not issue a certificate of appealability in this matter. (Attachments: # 1 Notice - Civil Appeals in Pro Se Cases) Ordered by Senior Judge Richard G. Kopf. (Copy mailed to pro se party)(TCL) (Entered: 03/31/2021)
05/03/2021	 47	<input type="checkbox"/> 42.10KB	Mail Returned as Undeliverable addressed to Eric M. Robinson at 4640 Orchard Street, Apt 39, Lincoln, NE 68503 regarding Order 45 and Judgment 46 . Mail resent to 8144 Mathew Place, Lincoln, NE 68516 (LRM) Modified on 5/4/2021 to reflect that the documents were resent (LRM). (Entered: 05/03/2021)

The court has no idea why the mailing was not returned to the court as undeliverable until May 3, 2021. However, when the mailing was returned, the court promptly directed the clerk of court to resend notice to the address provided by Robinson in another habeas case, Case No. 8:21CV118, filed in this court on March 18, 2021. Robinson asks, “Why didn’t the court send something to notify me that such an error happened due to what appears to be something that is upon the court’s mismanagement of the information that came attached to an entire

¹ Robinson attaches screen shots of his email inbox showing “USPS Informed Delivery” notifications for several dates in April 2021 and early May 2021. (Filing 50 at CM/ECF pp. 46–47.) The notifications indicate that Robinson will “have mail and packages arriving.” *Id.*

pleading[?]" (Filing 50 at CM/ECF p. 15 (spelling and punctuation corrected).) Robinson's question presumes that the court was required to notice and update the Orchard Street address on file in this case with the address provided on the envelope used to mail the habeas petition filed in 8:21CV118. However, it is Robinson's responsibility to keep the court informed of his current address at all times. *See* NEGenR 1.3(e) and (g) (requiring pro se parties to adhere to local rules and inform the court of address changes within 30 days). (*See also* Filing 28 (June 18, 2020 order informing Robinson of this obligation and requiring him to update address).) It is not the court's job to monitor Robinson's filings in all of his cases to ensure that the court has his current address in all cases. While Robinson filed a new habeas case on March 18, 2021 that reflected a different address than the one on file in the present case, Robinson never notified the court *in this case* that the Orchard Street address was no longer a valid address for him. In any case, the court did send Robinson notice of the entry of Judgment once it learned the Orchard Street address was invalid.

Regardless of any delay due to the court's mailing of the March 31, 2021 Judgment to the Orchard Street address, such delay does not warrant relief from the Judgment itself. Rather, the only relief warranted by the lack of timely notice of the entry of Judgment is the reopening of the time for Robinson to file an appeal, which the court has done.

The court has carefully considered all of Robinson's arguments in his 52-page motion and finds that he is not entitled to relief from the March 31, 2021 Judgment.

IT IS THEREFORE ORDERED that:

1. Petitioner's Motion for Relief from Judgment (filing 50) is denied.
2. Petitioner is reminded that he has until June 23, 2021 to file a notice of appeal.

Dated this 22nd day of June, 2021.

BY THE COURT:

A handwritten signature in blue ink that reads "Richard G. Kopf". The signature is written in a cursive, flowing style.

Richard G. Kopf
Senior United States District Judge